

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

EVANSTON INSURANCE COMPANY,

Plaintiff,

v.

Case No. 8:19-cv-2543-T-23AEP

88 SPA LLC, *et al.*,

Defendants.

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ORDER

This cause comes before the Court upon Plaintiff's Unopposed Motion for Leave to Depose Ralph Forte (Doc. 64), who is currently confined at the Hamilton Correctional Institution Annex. Pursuant to Rule 30, Federal Rules of Civil Procedure, a party must obtain leave of court, and a court must grant leave to the extent such request is consistent with Rule 26(b)(1) and (2), when a deponent is confined in prison. Fed. R. Civ. P. 30(a)(2)(B). Rule 26(b)(1) provides that parties can obtain discovery regarding any nonprivileged matter that is relevant to a party's claim or defense and proportional to the needs of the case. Rule 26(b)(2) permits courts to limit the frequency or extent of discovery if: (1) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive; (2) the party seeking the discovery has had ample opportunity to obtain the information by discovery in the action; or (3) the proposed discovery falls outside the scope permitted by Rule 26(b)(1). Fed. R. Civ. P. 26(b)(2)(C)(i)-(iii). As a result, courts should permit the deposition of an incarcerated individual unless an objecting party can demonstrate that the deposition is not relevant or proportional to the needs of the case or that the deposition fits into one of the enumerated categories under Rule 26(b)(2).

See Truitt v. Byrd, No. 3:07-cv-204-J-32MCR, 2007 WL 2915598, at *1 (M.D. Fla. Oct. 4, 2007) (citation omitted); *see also* Fed. R. Civ. P. 30 advisory committee's note to 2015 amendment ("Rule 30 is amended in parallel with Rules 31 and 33 to reflect the recognition of proportionality in Rule 26(b)(1)."). Here, the motion is unopposed. Accordingly, it is hereby

ORDERED:

1. Plaintiff's Unopposed Motion for Leave to Depose Ralph Forte (Doc. 64) is GRANTED.

2. Counsel for Plaintiff is instructed to confer with the appropriate official at the Hamilton Correctional Institution Annex, located at 10650 Southwest 46th Street, Jasper, Florida 32052, where Ralph Forte is currently confined, to agree on an appropriate location, time, and date for the deposition. The parties must comply with any applicable rules and regulations at the Hamilton Correctional Institution Annex.

DONE AND ORDERED in Tampa, Florida, on this 20th day of August, 2020.



ANTHONY E. PORCELLI
United States Magistrate Judge

cc: Counsel of Record